

APPROVED

TOWN OF WESTFORD

BOARD OF SELECTMEN

MINUTES

DATE: August 12, 2003

TIME: 7:30 P.M.

PLACE: J.V. Fletcher Library

PRESENT: Christopher Romeo, Robert Jefferies, Allan Loisel, Dini Healy-Coffin, James Silva

OTHERS

PRESENT: Steve Ledoux-Town Manager, Audience Members

Open Forum

William Connell, 25 Keyes Road, was present representing a group of residents seeking to change the name of the Stony Brook School to the Veterans Memorial Middle School to honor and show appreciation for Westford's veterans. Connell asked the Board for ideas, opinions and endorsement regarding the name change. Connell stated that it was the group's intent to bring the petition to Town Meeting. Connell indicated that the group will be meeting with the School Committee to discuss the proposed name change. Jefferies recommended that the group get their petition together for Town Meeting as soon as possible. Paul Murray, Veterans Services Officer, stated that the name change encompasses all of Westford's veterans from the past, present and future. Elaine McKenna, 58 Newport Drive, stated that changing a school name is not without precedent and has been done twice in the past. The Board urged the group to get on the School Committee's agenda as soon as possible. This discussion was continued to the meeting of September 9, 2003.

Harriet Rodman, representing W.I.T.S. (Westford Initiative for Traffic Safety), read a statement regarding their concerns for pedestrian/vehicle safety hazards at Kimball's and Route 110. W.I.T.S. requested that the problem be addressed at the September 9th Selectmen's meeting. W.I.T.S. also requested that Kimball's hire police details to direct traffic until the problems are resolved. Romeo

assured Rodman that the Board has been working with Mass Highway regarding the traffic issues at Kimball's. This discussion was continued to the meeting of September 9, 2003.

Public Hearing – Joint Petition from Verizon New England and Mass Electric for Placement of One Pole – Plain Road & Gassett Road

Joel Felice, Right-of-Way agent for Verizon, was present seeking permission to place one pole and remove one pole on Gassett Road and to place one pole and remove one pole on Plain Road. Jefferies asked Felice to provide a schedule for double pole removal.

Felice stated that he did not know that the Board wanted a schedule but would provide one at the earliest opportunity. Jefferies stated that the Board keeps hearing this same response time after time. Felice stated that he would have brought a schedule of maintenance had he known the Board was looking for a double pole inventory. Felice stated that Mass Electric is removed from a pole first, cable, Fire and CLECS (Competitive Local Exchange Company) follow with Verizon removed last. Felice stated that Verizon must wait for all others to be removed. When all users are off the pole then the pole can be removed. Felice to check with the Verizon engineer for Westford to determine if there are any CLECS in Westford. Healy-Coffin suggested postponing the public hearing until September 9th so that the local engineer can appear before the Board with a schedule. The Board concurred. There was no input from the floor. **It was moved by Healy-Coffin, seconded by Jefferies, and VOTED UNANIMOUSLY, to continue the public hearing to September 9, 2003.** Ledoux to notify the other carriers on the poles of the public hearing on September 9th to discuss the double pole situation in Westford.

Public Hearing – Wine & Malt License – Seven Island, Inc., Kolova Market, 288 Littleton Road

Rahal Kumar, applicant, was present seeking a Wine & Malt License for a retail store selling ethnic/gourmet foods and alcohol at Unit #18, Gateway Plaza. Kumar stated that the retail store would sell imported beer and wine and packaged food. Kumar stated that there would be no cooking or preparation of food on the premises. Kumar felt that the sale of beer and wine would be low scale. Loiselle was concerned with the traffic impacts and egress onto Route 110 generated by this type of business. Loiselle asked Ledoux to check with the Planning Department to determine whether a change of use is needed under site plan approval. Judy Gizara, stated that she was the original broker for this condominium plaza and that it was marketed as professional office suites and that there would be no food, etc. on the premises. Gizara stated that the building has been held as an office condominium for the last 16-18 years. Gizara stated that there is a multiple of 23 owners in the plaza. Gizara referenced the minutes of the Association meeting when the applicant met with the Association. Gizara stated that the applicant never mentioned a Wine and Malt License. Gizara pointed out that there is a daycare center nearby and a dance studio in one of the condominium units. Gizara felt that this was not an asset to the condominiums and cited the dangerous intersection, and the proximity of a liquor store and a restaurant that serves alcohol. George Gogas, owner of an abutting condominium unit, was opposed to the Wine and Malt License. Gogas felt that it was not an appropriate use for this site particularly with the dance studio in one of the units. Gogas asked that the Building Inspector be involved regarding the question of the change of use. The owner of Unit 11 was opposed to the license and noted that a remedial school is in use in one of the units from September through June. Healy-Coffin suggested continuing the public hearing to September 9th so that the Board could get answers from the Planning Department and the Building Inspector. Healy-Coffin was not in favor of a liquor store in the Gateway Condominium plaza and felt that it belonged in a more retail environment. **It was moved by Healy-Coffin, seconded by Jefferies, and VOTED UNANIMOUSLY, to postpone the public hearing to September 9, 2003 or a future date.**

Appointments to Conservation Commission

Eric Fahle, Chairman of the Conservation Commission, submitted three names to the Board as a recommendation to fill two vacancies. Fahle reported that upon completion of the interview process, the Conservation Commission recommended the appointments of Ann Jefferies, Marian McCurley and Lauren Coffey. Jefferies recused himself as his wife is a candidate for appointment. **It was moved by Silva, seconded by Loiselle, and VOTED 4 IN FAVOR WITH 1 RECUSAL (Jefferies), to nominate Ann Jefferies for appointment. It was moved by Loiselle, seconded by Healy-Coffin, and VOTED 4 IN FAVOR WITH 1 RECUSAL (Jefferies), to nominate Marian McCurley for appointment. It was moved by Silva, seconded by Healy-Coffin, and VOTED 4 IN FAVOR WITH 1 RECUSAL (Jefferies), to nominate Lauren Coffey for appointment.** Romeo called for a vote for each nomination. **It was VOTED 4 IN FAVOR WITH 1 RECUSAL (Jefferies), to appoint Ann Jefferies. It was VOTED 3 IN FAVOR WITH 1 RECUSAL (Jefferies) and 1 OPPOSED (Silva), to appoint Marian McCurley. It was VOTED 1 IN FAVOR (Silva), 3 OPPOSED (Romeo, Healy-Coffin, Loiselle), and 1 RECUSAL (Jefferies), to appoint Lauren Coffey.** Ann Jefferies and Marian McCurley were appointed to the Conservation Commission.

Keyes Road Residents Express Concerns over Omnipoint

Roy Sodersjerna, 49 Keyes Road, read a statement outlining the safety issues associated with the abutters' recommendation that the cell tower on the Connell property be moved to a central location. Sodersjerna referenced the proximity to abutters' property lines, property values and health issues associated with radiation exposure. Sodersjerna was also seeking feedback from the Board's executive sessions on this matter. Healy-Coffin informed Sodersjerna that the Board cannot divulge what was discussed in executive session. Sodersjerna stated that the neighbors are frustrated. Sodersjerna also stated that Omnipoint had approved a central location for the tower and that the abutters support that location and have started a petition. Sodersjerna believed that the Town did not support the central location. Ledoux pointed out that the central location would require a higher tower. The Board did not know about the Town not supporting the central location and asked Ledoux to look into that issue. Sodersjerna stated that he hoped to open a dialogue regarding the central location. Romeo suggested that the Board communicate with the Zoning Board of Appeals relative to the central location. Susan Bunker, 47 Keyes Road, stated that the abutters want the tower off of the property lines. Bunker requested that the Board ask the Connells to move the tower.

Selectmen to Comment on Waiver Requested by Rosegate Development

Ledoux referenced a letter from Jennifer Burke, Permitting Office Manager, dated July 25, 2003, regarding the Chapter 40B project known as Rosegate at Westford located at 99 Main Street. Burke wrote on behalf of the Zoning Board of Appeals seeking comment from the Selectmen regarding the following two waivers requested by the developer:

Section 6.3 Growth Management – to allow for development of all 12 units without limitation on building permit issuance; and

Waiver from all Building Permit, Inspection, Application, Connection fees and any other Town of Westford fees as they may be applicable.

Ledoux referenced a memorandum from Norman Khumalo, Assistant Town Manager, dated August 7, 2003, with the following recommendation for the Selectmen:

Section 6.3.1. Growth Management: Would recommend granting the waiver only subject to the Applicant designating and designing one of the affordable units for use by the elderly or persons with disabilities, where occupancy of the said unit will be restricted to seniors or persons with disabilities through a properly executed and recorded deed restriction running with the land.

Fees: Object to granting a waiver from all Building Permit, Inspection, Application, Connection fees or any other applicable fees.

Jefferies felt that the project could be built in phases under development scheduling or on an accelerated schedule. Jefferies also suggested that the Zoning Board attempt to restrict investor buyers for the units. Jefferies recommended asking Attorney Mark Bobrowski, the Town's legal consultant for Chapter 40B projects, for assistance regarding investor buyers. The Board was not in favor of waiving fees. **It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to object to the waiver of fees for all Building Permits, Inspection, Application, Connection fees or any other applicable fees.** Loiselle indicated that he would like to understand the impact phasing of construction would have on the project. Loiselle suggested that the Board meet with the Zoning Board at their meeting on August 20, 2003. Romeo suggested provided the Zoning Board with the portion of the Selectmen's minutes regarding Rosegate development.

It was moved by Jefferies, seconded by Healy-Coffin, and VOTED UNANIMOUSLY, that the Selectmen recommend strongly that the Zoning Board of Appeals not waive development scheduling, which is part of the Growth Management Bylaw, and waive permits for market rate units only in numbers necessary to facilitate development scheduling.

Selectmen to Accept Gift from Mass Vietnam Veterans Association, Inc.

Paul Murray, Veterans Service Officer, was present seeking the Board's acceptance of a gift in the amount of \$1,000 from the Massachusetts Vietnam Veterans Association, Inc. The money will be used for emergency expenditures not covered under Federal law for veterans or veteran families. **It was moved by Jefferies, seconded by Healy-Coffin, and VOTED UNANIMOUSLY, to accept the gift.** Murray to prepare a thank you letter on behalf of the Town.

Town Report Committee

Ledoux read a draft committee charge for the Town Report Committee. Ledoux stated that the Town Report is currently prepared by the Town Clerk's office. **It was moved by Loiselle, seconded by Healy-Coffin, and VOTED UNANIMOUSLY, to establish a Town Report Committee with the charge provided by Ledoux.**

Selectmen to Review Potential Land Donations

Gift to Conservation Commission of 2.3 acres on Keyes Road – Ledoux reported that the gift of land was part of an ANR plan. Eric Fahle, Chairman of the Conservation Commission, stated that the land is predominately swampy wetlands. Jefferies believed that the ANR plan was not legal because it removed all frontage from

this lot. Romeo asked that Ledoux obtain an opinion from Town Counsel regarding the legality of the ANR plan. **It was moved by Jefferies, seconded by Loiselle, and VOTED UNANIMOUSLY, pursuant to the provisions of M.G.L. Ch. 40, s. 8C as it may hereafter be amended, to accept from John Doucette and James Duffy of Keyes Road, Westford, the gift of a parcel of land to the Town being shown as a parcel labeled as “Remainder of Open Space to be Deeded to the Town of Westford, Area = 2.3 Acres +/- on a Plan of Land entitled “ANR Subdivision Plan, Keyes Road, Westford, Massachusetts” dated January 15, 2003 by Howe Surveying Associates, Inc., No. Chelmsford, MA, said Plan to be recorded at Middlesex North District Registry of Deeds and said land to be managed and controlled by the Conservation Commission of the Town of Westford for the promotion and development of the natural resources and for the protection of the watershed resources of said Town. Said Acceptance to be conditional upon provision of clear title to the land and full payment of taxes due to the date of conveyance to the Town and contingent upon the legality of the ANR plan.**

Gift to Town of .48 acres, Acton Road – Ledoux reported that he is in the process of obtaining input from Town boards regarding this land. Healy-Coffin questioned the acceptance of the gift given the size of the land. Romeo asked Ledoux to notify the landowner of the Board’s concern. Continued to September 9, 2003.

Selectmen to Set Date for Special Town Meeting

Ellen Harde, Town Moderator, was present for the discussion. Ledoux and the Board discussed the proposed date of October 27th for Special Town Meeting. After discussion, the Board set **Tuesday, November 4, 2003** for the Special Town Meeting. Harde stated that she will work with Ledoux to adjust the timeline.

Request for Waives of Hiring Freeze for the Following Positions:

Assistant Town Engineer – Richard Barrett, Highway Superintendent and James Arsenault, Town Engineer, were present. **It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to remove the hiring freeze for the Assistant Town Engineer.**

Finance Technician - Suzanne Marchand, Finance Director, was present. **It was moved by Healy-Coffin, seconded by Jefferies, and VOTED UNANIMOUSLY, to remove the hiring freeze for the Finance Technician position as approved by Town Meeting.**

Licenses and Permits

Use of Town Common for Open House for Dance School Registration – **Saturday, August 30, 2003 from 10:00 – 11:00 a.m.** Healy-Coffin asked that the event be moved further down in the Common and away from the road. **It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve contingent upon the location being farther down the common.**

Request to close Fairview Drive at Main Street for Block Party, September 6th 2:00 – 8:00 p.m.; Rain Date September 7th – **It was moved by Jefferies, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve.**

Public Entertainment License Annual 4-H Fair, South Chelmsford Road, August 23rd -25th (9:00 – 4:30 pm) – Jefferies wanted to know what plans Governor Romney had for the fairgrounds. **It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve.**

Block Party – Buckboard Drive, Saturday, September 6, 2003 – It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve.

Request for Use of Town Common for Pre & Post Wedding Pictures, September 4, 2003 – Jefferies asked Ledoux to notify people using the common that the land across from the town common is private property. **It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve.**

Board Appointments

Cultural Council – It was moved by Loiselle, seconded by Jefferies, and VOTED UNANIMOUSLY, to appoint Debra Vanderwerf and Jean Schott to the Cultural Council.

Permanent Town Building Committee – It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to appoint Karen Cavanaugh, Eric Bellone, Thomas Mahana, Lawrence Order, Scott Hazelton, Chris Doonan, and Paul Davies.

Dean DeVito, Constable – It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to appoint.

Franklin Property

Ledoux referenced a memo from Cheryl Accardi, Tax Collector, dated July 15, 2003, regarding delinquent taxes in the amount of \$40,827.04 for properties owned by Industrial Rents (Franklin). The memo also reported that 67 Broadway Street has been in Tax Title since FY02. The notification to begin foreclosure will be sent to the Land Court this fall.

Brookside Mill

Ledoux reported that DHCD has issued awards for the Grant Program which Brookside, LLC had applied for in the amount of \$500,000. Brookside, LLC was awarded a Grant in the amount of \$53,000. Ledoux also reported that he had his monthly meeting with Gerry Boucher recently. Boucher is working on the final loan closing and will be discussing with Ledoux the reduced Grant amount and the ramifications of that in the near future. Ledoux to keep the Board updated. Romeo was disappointed that the Grant was reduced. Romeo recommended to Ledoux that if there is room for negotiations on the 3 affordable units to keep that item as top priority. Loiselle reported that the project is coming along well and is a huge improvement to the area. Ledoux also reported that ten units have already been pre-sold. Ledoux stated that he would be meeting with the dam engineer on Wednesday, August 13, 2003 regarding repairs to the dam. Jefferies asked that a letter be provided from MHP explaining their reasoning for the Grant amount.

Minutes

It was moved by Healy-Coffin, seconded by Silva, and VOTED UNANIMOUSLY, to approve the minutes of June 24, 2003, as amended.

Board Reports/Updates

Stony Brook School – Jefferies reported on behalf of the Permanent School Building Committee that the Board of Health permitting on the wastewater treatment plant is outstanding. Jefferies stated that everything else was on track and that the school should open in September.

Communications Advisory Committee – Silva reported that by the end of August Comcast has predicted that everyone should have broadband cable access.

Stepinski Land Acquisition Update – Silva reported that the committee approved asking for CPA funds in the amount of \$1 million for acquisition of the Stepinski property with the Water Department using \$500,000. Silva also reported that the Stepinski development team is contemplating the best use of the land as a gravel operation. The committee disagrees with that use.

Abbott Mill – Romeo reported on a recent meeting he attended with Rep. Hall, Senator Panagiotakos, Norman Khumalo, Andrea Peraner-Sweet and a representative from Governor Romney's office regarding the Abbott Mill. Romeo stated that the Pleasant Street bridge repair schedule has been moved up to FY04. Ledoux referenced the Traffic Improvement Plan for Middlesex County.

Old Business/New Business

Lavelle Property – Ledoux reported that several buildings on the property are in close proximity to the new middle school. Ledoux felt it was prudent to move forward with the demolition of those buildings. Ledoux stated that he received a request from Ken Morgan, Chairman of the Permanent School Building Committee, seeking permission to use the garage on the Lavelle property to store lawn mowing equipment. Healy-Coffin was in favor of demolishing all the buildings including the garage. Healy-Coffin pointed out that there have been no discussions regarding the garage and felt that there was adequate space at the school to store lawn equipment. The Board concurred.

It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to demolish all the buildings (on the Lavelle property). Richard Barrett, Highway Superintendent, stated that demolition work would begin immediately.

Shared Technician Plan with School Department – Ledoux reported that he has been working with the School Department on a shared technician plan. A joint presentation to the Selectmen, School Committee and Finance Committee will be given in September regarding the shared technology. Ledoux stated that the School Committee has concerns with budget impacts and how the shared technology will work. Ledoux stated that he would be meeting with the School Superintendent on Thursday, August 14, 2003.

Executive Session – Ledoux requested an executive session to discuss negotiations with IAFF and Tresca vs. Westford if time permits.

Tree Removal – Concord Road – Jefferies requested a report from the Tree Warden regarding two trees that were removed from Concord Road. Jefferies asked if a public hearing was held under the Shade Tree Act.

Sewer Connection at Nashoba Valley Technical High School – Loiselle recused himself as his wife recently applied for a position with Nashoba Tech. Healy-Coffin referenced a letter from the Nashoba Tech School Superintendent dated August 6, 2003. Healy-Coffin requested a discussion with the Conservation Commission for an update. Ledoux to schedule.

Correspondence

Romeo read the list of correspondence.

8.17 Joint Commission on Health Care Organizations re: Emergency Preparedness. Romeo suggested that this matter be scheduled as a future agenda item. Ledoux reported that he is working with Emergency Management on this matter.

Executive Session

Romeo polled the Board at 10:17 p.m. regarding going into executive session to discuss negotiations with IAFF and Tresca vs. Westford. A polling of the Board: Romeo-yes; Jefferies-yes; Loiselle-yes; Healy-Coffin-yes; Silva-yes. Richard Rochon, Fire Chief; Suzanne Marchand, Finance Director; and Christine Liebke, Human Resources Director, to be present for the IAFF discussion. The Board to reconvene to regular session for the purpose of adjourning only.

Open Items

- 8/12-1 Schedule discussion for 9/9 meeting with group re: name change for Stony Brook School.
- 8/12-2 Schedule discussion for 9/9 meeting re: Kimball's traffic issues per WITS letters.
- 8/12-3 Schedule continued public hearing for Verizon and Mass Electric Joint Petition re: Plain Road and Gassett Road.
- 8/12-4 Ledoux to notify all users of utility poles of 9/9 meeting for double pole discussion.
- 8/12-5 Ledoux to determine change of use re: request for beer & wine license at Gateway Condo.
- 8/12-6 Schedule continued public hearing for 9/9 meeting re: beer & wine license for Seven Island, Inc. or future date.
- 8/12-7 Ledoux to look into issue of town not supporting central location for cell tower on Keyes Road per Roy Sodersjerna and to communicate with ZBA.
- 8/12-8 Ledoux to communicate Board's votes to ZBA re: Rosegate.
- 8/12-9 Ledoux to obtain opinion from Town Counsel re: legality of ANR lot on Keyes Road (land donation to the Conservation Commission).
- 8/12-10 Ledoux to notify landowner of Acton Rd parcel (land donation) of Board's concern.
- 8/12-11 Schedule discussion for 9/9 meeting land gift Acton Road.
- 8/12-12 Ledoux to inform people using the common that the land across from the common is private property.
- 8/12-13 Ledoux to get letter from MHP explaining Grant amount for Brookside Mill.
- 8/12-14 Ledoux to get report from Tree Warden re: removal of trees on Concord Road.
- 8/12-15 Ledoux to schedule ConsCom for update on NVTHS sewer connection.

Reconvene to Regular Session and Adjournment

The Board reconvened to regular session at 10:55 p.m. It was moved by Loiselle, seconded by Healy-Coffin, and VOTED UNANIMOUSLY, to adjourn the meeting.

